

United States Court of Appeals
 Southern District of Texas
 FILED

OCT 09 2019

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF TEXAS
 DIVISION

Michael M. Porasef

versus

City of Houston

§
§
§
§
§
§
§

CIVIL ACTION NO. _____

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is:

Michael M. Porasef

Address:

4535 Wellington Grove Lane
Katy, TX 77494

County of Residence:

Fort Bend County, TX

3. The defendant is:

City of Houston

Address:

900 Bagby St. Rm. P101
Houston, TX 77002

☐ Check here if there are additional defendants. List them on a separate sheet of paper with their complete addresses.

4. The plaintiff has attached to this complaint a copy of the charges filed on 9-20-2018 with the Equal Opportunity Commission.

5. On the date of 7-30-2019, the plaintiff received a Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission; a copy is attached.

6. Because of the plaintiff's:

- (a) ☒ race
- (b) ☐ color
- (c) ☐ sex
- (d) ☐ religion
- (e) ☒ national origin,

the defendant has:

- (a) ☐ failed to employ the plaintiff
- (b) ☐ terminated the plaintiff's employment
- (c) ☒ failed to promote the plaintiff
- (d) ☒ other: Failed to resolve the ongoing unlawful discrimination and retaliation in the Work Place by Duc Nguyen, Michelle Love and Hollis Weeks.

7. When and how the defendant has discriminated against the plaintiff:

On Nov. 2, 2016 Michelle Love lashed out at me; In June of 2016 I was not given the Position that I applied for and I was the most qualified candidate and when I filed a grievance I was retaliated against.

8. The plaintiff requests that the defendant be ordered:

- (a) ☒ to stop discriminating against the plaintiff
- (b) ☐ to employ the plaintiff
- (c) ☐ to re-employ the plaintiff
- (d) ☒ to promote the plaintiff

- (e) ☒ to Investigate thoroughly the Unfair and Unjust
job Position that was given to Duc Nguyen as a
Maintenance Manager which she mad and that;
falsified statements in her application and interview.
- (f) ☒ the Court grant other relief, including injunctions, damages, costs and
attorney's fees.

M. Porasch

(Signature of Plaintiff)

Address: 4535 Wellington Grove Lane
Katy, TX 77494

Telephone: 281-844-4060

DISMISSAL AND NOTICE OF RIGHTS

To: **Michael M. Porasef**
4535 Wellington Grove Lane
Katy, TX 77494

From: **Houston District Office**
Mickey Leland Building
1919 Smith Street, 7th Floor
Houston, TX 77002



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2018-05464

Shirley Almaguer,
Investigator

(713) 651-4907**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Shirley Almaguer
Rayford O. Irvin,
District Director

July 30, 2019
 (Date Mailed)

Enclosures(s)

cc: **Donald Fleming**
Section Chief
CITY OF HOUSTON LABOR EMPLOYMENT & CIVIL
RIGHTS
900 Bagby St. 3rd Floor
Houston, TX 77002

TWX-Civil Rights Division
Lowell Keig, Executive Director
101 East 15th Street, Room T 144
Austin, TX 78778

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Charge No.: 460-2018-05464

Michael Porasef vs. City of Houston

I wish to amend my complaint to include: ongoing retaliation. I have filed numerous complaints of ongoing harassment by Duc Nguyen and my management team Michelle Love and Mr. Weeks. On or about April 23, 2019, Respondent returned me to my current job under the same management who I complained discriminated and continue to retaliate against me; my subordinates were cut from three to one and has given unreasonable task with an unreasonable expected completion date being short-handed and without any resources or support which has created a hostile work environment for me. On March 13, 2019, I applied, am qualified for the Division Manager Chief HA LAN – 20976 and to date have not received the status.

I believe because of my ongoing complaints of unlawful discrimination in the workplace Respondent has continued to retaliate against me and fail to consider me for current promotional opportunities in violation under Title VII of the Civil Rights Act of 1964, as amended.

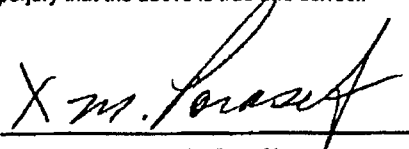
6/19/19

DATE

M. Porasef


Michael Porasef

EEOC Form 5 (11/09)

| | | | |
|--|--|--|---|
| CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form. | | Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 460-2018-05464 </div> </div> | |
| Texas Workforce Commission Civil Rights Division and EEOC <small>State or local Agency, if any</small> | | | |
| Name (indicate Mr., Ms., Mrs.) Mr. Michael M. Porasef | | Home Phone (Incl. Area Code) (281) 844-4060 | Date of Birth 1955 |
| Street Address 4535 Wellington Grove Lane, | | City, State and ZIP Code Katy, TX 77494 | |
| Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.) | | | |
| Name CITY OF HOUSTON | | No. Employees, Members 500 or More | Phone No. (Include Area Code) (832) 393-6012 |
| Street Address 611 Walker, | | City, State and ZIP Code Houston, TX 77002 | |
| Name | | No. Employees, Members | Phone No. (Include Area Code) |
| Street Address | | City, State and ZIP Code | |
| DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify)</div> </div> | | | DATE(S) DISCRIMINATION TOOK PLACE <div style="display: flex; justify-content: space-between;"> <div>Earliest 07-25-2018</div> <div>Latest 09-17-2018</div> </div> <div style="text-align: center; margin-top: 10px;"> <input checked="" type="checkbox"/> CONTINUING ACTION </div> |
| THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). <p>On July 25, 2018, I received a falsified positive corrective action from my manager (Duc Nguyen). This disciplinary action was later rescinded by the ECRP Committee's recommendation.</p> <p>Around July 26, 2018, Respondent became aware of my complaint I filed concerning the ongoing harassment and retaliatory discrimination by the management team (Michelle Love, Hollis Weeks, and Duc Nguyen).</p> <p>Shortly after Respondent became aware of my complaint, I suffered a tangible harm when I was transferred to another work location on July 30, 2018. Further, on September 17, 2018, my assigned facilities increased from 2 to 38 locations for working duties. Management is also aware that my staff was previously reduced and I am short staffed to handle this mass project. I believe I have been setup for failure based on my complaint about discrimination.</p> | | | |
| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct. | | NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) | |
| Date Sep 20, 2018 | | Charging Party Signature  | |

EEOC Form 5 (11/09)

| | |
|--|--|
| <p align="center">CHARGE OF DISCRIMINATION</p> <p><small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small></p> | <p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 460-2018-05464</p> |
| <p align="center">Texas Workforce Commission Civil Rights Division and EEOC</p> <p align="center"><small>State or local Agency, if any</small></p> | |
| <p>I believe that I continue to be retaliated against for engaging in a protected activity and discriminated against because of my Race (White) and National Origin (Iranian), in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> | |

| | |
|--|---|
| <p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> | <p>NOTARY – When necessary for State and Local Agency Requirements</p> |
| <p>I declare under penalty of perjury that the above is true and correct.</p> | <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> |
| <p>Sep 20, 2018 </p> <p>Date Charging Party Signature</p> | <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p> |

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please notify EEOC or the state or local agency where you filed your charge if retaliation is taken against you or others who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.